

REMARKS/ARGUMENTS

This is in response to the Office Action of October 11, 2005 which is responsive to the Amendment filed 11 February, 2004, the shortened period for response thereto expiring December 11, 2005. Claims 1, 7 and 8 have been amended and claims 2 and 9 have been cancelled placing the application in form for allowance.

Claim 2 was objected to because reference character 40 was used in the specification and drawings to designate both a pressure regulator means and a valve means and reference character 23 was used to designate both a pressurizing means and a force applying means. Claim 1 has been amended by replacing "pressure regulator means" with -- pressure responsive valve means --. It is respectfully submitted that this designation is fully supported by the specification at page 5, lines 2-16, and lines 25-13 and the use of "pressure responsive valve means" is appropriate. In the portion of claim 2 added to claim 1, "valve means" has been replaced by -- valve --. As explained at page 5 of the specification, 40 designates a valve arrangement which opens and closes at predetermined pressures (i.e. pressure responsive valve means). In particular, as "the pressure of the fluid in the outflow chamber 30 drops below the preselected outflow pressure, the valve arrangement 40 opens and allows fluid from the storage chamber 20...to flow into the outflow chamber. When the pressure in the outflow chamber 30 reaches the preselected outflow pressure once again, the valve arrangement 40 closes". This is a clear and unambiguous description of the "pressure responsive valve means" as used in amended claim 1.

In regard to the objection to the use of reference numeral 23, as set forth in the specification at page 4, line 26- page 5, line 2, 23 designates a spring arrangement which functions as a force producing device causing the diaphragm 22 to exert a force on a drug solution in the storage chamber 20 (i.e., a force applying means causing the movement of diaphragm 22). However, neither the disclosure nor the claims are limited to a spring arrangement. The application specifically states that other force producing devices such as gas filled cylinders, spring driven pistons or elastomeric chambers can be used to exert a force on the drug solution. Prior claim Claim 2, and now amended claim 1 which includes the language of prior claim 2, references a "force applying means". Figure 1 shows a spring 23 which applies a force on the storage container 20. In Figure 2 the force applying means is a

surrounding elastomeric bladder 123 which applies pressure on its fluid contents. One skilled in the art will fully recognize that pressure is defined as force per unit area. Accordingly, under any scientific standard, a pressure means is a force applying means. Claim 2 as previously constituted, and now claim 1 as amended, are not and were never limited to the embodiment of Fig. 1 but also encompasses the embodiment of Fig. 2 and any other equivalent structures within the scope of the claims. While the Office Action specifies that the objection to the drawing will not be held in abeyance, no objection to the drawing appears to have been raised and therefore no correction to the drawing is being submitted. The objection instead is to the terms used in the specification, namely, a "spring arrangement 23" and a "valve arrangement 40". The terms "force applying means" and "pressure responsive valve means" refers to the same respective features as explained above. It is submitted that the claims are supported by the specification and the drawings and all limitations in the claims are set forth in the drawings.

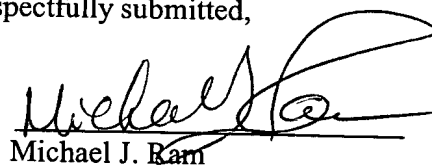
Claims 1, 6 and 8 were rejected under 35 USC 102(b) as shown by DiDomenico, US Patent 4,714,462 and claims 4 and 5 were rejected under 35 USC 103(a) as obvious based on DiDomenico. However, claims 2, 3, 7 and 9 were allowable if rewritten in independent form. Accordingly, claim 1 has been amended to include, verbatim, the limitation of claim 2, claim 2 has been canceled, claim 3 has been amended to be dependent on now-allowable amended claim 1, claim 7 has been made independent by adding, verbatim, the language of claim 1, claim 8 has been amended to include the language of claim 9, verbatim, and claim 9 has been cancelled. Original claims 4-6 are now dependent on allowable claim 1 and are therefore allowable.

Claims 1 and 3-8 remain in the application. It is respectfully submitted that these claims are patentable, fully supported by the Specification and not shown nor suggested by the cited reference. It is respectfully submitted that all remaining claims are allowable and the issuance of a Notice of Allowance is requested.

Respectfully submitted,

Dated: October 31, 2005

By:



Michael J. Ram

Registration No. 26,379

Attorney for Applicant(s)

Application No. 09/670,735
Preliminary Amendment Dated October 31, 2005
Docket No. 009-26-004



KOPPEL, JACOBS, PATRICK & HEYBL
555 St Charles Drive, Suite 107
Thousand Oaks, CA 91360
Phone (805) 373-0060
Fax (805) 373-0051

CERTIFICATE OF EXPRESS MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service, Express Mail Label EV460255905US, in an envelope addressed to: Mail Stop RCE, Commissioner of Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

10-31-05
Date


Eleanor Nakada